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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT FREDRICK OLSON,

Defendant and Appellant.

F067173

(Super. Ct. No. 1434534)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Stanislaus County. Linda A. McFadden, Judge.

Francine R. Tone, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Cornell, Acting P.J., Kane, J. and Poochigian, J.

INTRODUCTION

Against the advice of counsel and pursuant to a plea agreement with the People, appellant Robert Fredrick Olson pled no contest to one count of robbery and admitted two prior convictions pursuant to Penal Code section 667, subdivision (d).¹ Olson filed a motion to strike one or more of his prior convictions pursuant to *People v. Romero* (1996) 13 Cal.4th 497. The trial court denied the *Romero* motion and sentenced Olson to 25 years to life. Appellate counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

FACTUAL AND PROCEDURAL SUMMARY

On July 13, 2011, Olson walked into a bank in Modesto and handed the teller a note. The note asked the teller to hand over the money and indicated he had a gun. The teller complied. Olson picked up the note he had handed her and thanked the teller. Olson walked out of the bank and left in a cab that he had arranged to have waiting outside.

On February 29, 2012, Olson was charged with one count of robbery, a violation of section 211. Two section 667, subdivision (a) enhancements, two section 667, subdivision (d) enhancements, and one section 667.5, subdivision (b) enhancement were alleged.

On March 1, 2013, against the advice of counsel, Olson informed the trial court he wanted to accept a plea offer. The trial court advised Olson of the consequences of a plea, including that he would spend 25 years to life in prison. The trial court then informed Olson of his constitutional rights and accepted a waiver of those rights. The parties stipulated that the preliminary hearing transcript provided a factual basis for the plea.

¹All further statutory references are to the Penal Code unless otherwise noted.

Olson pled no contest to the robbery count and admitted the two prior convictions pursuant to section 667, subdivision (d). As part of the plea agreement, the People dismissed the two section 667, subdivision (a) allegations and the section 667.5, subdivision (b) allegation. Olson also reserved the right to file a *Romero* motion. The trial court found the plea to be knowing and voluntary and accepted the plea.

Prior to the sentencing hearing, Olson filed a *Romero* motion asking the trial court to strike one or both of his prior convictions. The People filed written opposition to the motion.

On April 5, 2013, the trial court heard considerable argument on the motion. The trial court ultimately declined to strike either of the two prior convictions, stating, “Olson really has spent the majority of his life either locked up in custody for criminal offenses or has been on some sort of supervision through parole and obviously has not performed well on parole given the violations here.”

After denying the *Romero* motion, the trial court proceeded immediately to sentencing. A term of 25 years to life was imposed, credits awarded, and various fines and fees were assessed. The abstract of judgment was filed April 12, 2013. The abstract of judgment notes that 725 total credits were awarded, calculated as 631 actual days plus 94 local conduct credits. The abstract of judgment does not indicate whether credits were awarded pursuant to section 2933.1 or 4019.

A notice of appeal was filed April 30, 2013. Counsel was appointed to represent Olson in his appeal. On August 14, 2013, appellate counsel sent a letter to the trial court requesting an amended abstract of judgment be prepared. Counsel’s letter asked that the trial court correct the presentence custody credit awarded and indicate the statutory provision under which conduct credits were calculated, presumably section 2933.1. Counsel’s letter noted that the abstract of judgment failed to indicate whether conduct credit was calculated pursuant to section 2933.1 or 4019. In addition, the letter stated the

trial court had erred in calculating Olson's presentence days in custody at 631; the actual presentence days in custody was 632.

The trial court apparently did not prepare an amended abstract of judgment as requested by appellate counsel. However, a minute order correcting the presentence custody days to award 632 days of presentence credit was issued August 26, 2013. The minute order awarded 632 days of presentence custody credit, plus 94 days of conduct credit, for a total of 726 days.

DISCUSSION

Appellate counsel filed a *Wende* brief on December 5, 2013. By letter dated January 28, 2015, we invited Olson to submit additional briefing. To date, he has not done so.

After independent review of the record, we have concluded there are no reasonably arguable legal or factual issues. We, however, will direct the trial court to prepare a corrected abstract of judgment, as requested by appellate counsel, in conformance with the court's minute order. The amended abstract of judgment shall reflect presentence custody credits of 632 days, plus 94 days of local conduct credit, for a total of 726 days, and shall specify that local conduct credit was calculated pursuant to section 2933.1. Section 2933.1 is the applicable code section because Olson pled to a felony, robbery, which is listed in section 667.5, subdivision (c)(9).

DISPOSITION

Olson is awarded one additional day of credit as reflected in the trial court's August 26, 2013, minute order. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment in conformance with this opinion and disseminate the same to the appropriate agencies.